

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 347 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgement?-No.
2. To be referred to the Reporter or not?
:No.
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?-No.
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?-No.
5. Whether it is to be circulated to the Civil Judge?-No. :

LILABEN WD/O MOHANBHAI

RANCHHODDAS

Versus

BIPINCHANDRA MOHANBHAI

Appearance:

MR ZUBIN F BHARDA for Petitioner

MR AJ SHASTRI for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 18/10/1999

ORAL JUDGEMENT

Learned Advocate Shri Bharda, appearing for the
appellant, seeks leave to delete respondents 3 to 27.
Permission is granted. Respondents 3 to 27 stand
deleted.

Admit.

Learned Advocate Shri A.J. Shastri waives service of notice of admission for respondents 1 and 2.

At the time of hearing of the appeal, it has been submitted by learned Advocate Shri Shastri that some amount is payable to the present appellant by the Surat Municipal Corporation and the said amount has not been withdrawn by the present appellant. If the said amount is withdrawn, the appellant might not remain an indigent person.

In reply to the said submission made by learned Advocate Shri Shastri, it has been submitted by Shri Bharda, appearing for the appellant, that though the appellant is entitled to 1/9th share out of Rs.1,24,463.64 Ps. to be paid by the Surat Municipal Corporation to the present appellant, the respondents are objecting to the withdrawal of the said amount and, therefore, the present appellant is unable to withdraw the said amount.

Learned Advocate Shri Shastri has submitted that the respondents shall not object to withdrawal of the said amount and the respondents shall give an application to the Surat Municipal Corporation, stating the fact that they would not object to the withdrawal of the amount lying with the Surat Municipal Corporation. It has been clarified by Shri Shastri that the share, which was to be given to the present respondents, has already been received by them from the Corporation.

In view of the above-referred development, it would be just and proper to quash the impugned order dated 24th June, 1999 and Pauper Application No. 1 of 1993 of the appellant shall be considered afresh. It is also pertinent to note that while rejecting the said application by order dated 24th June, 1999, the trial court has considered certain facts with regard to the maintainability of the suit. The said findings shall not bind the concerned parties and, as stated hereinabove the entire application shall be heard afresh after hearing the concerned parties.

The Appeal stands disposed of as allowed with no order as to costs. It is hoped that the application shall be decided as soon as possible, preferably before 31st December, 1999.

(apj)